

AN ACT concerning liquor.

**Be it enacted by the People of the State of Illinois,  
represented in the General Assembly:**

Section 5. The Liquor Control Act of 1934 is amended by changing Section 6-2 and by adding Sections 6-1.5 and 6-4.5 as follows:

(235 ILCS 5/6-1.5 new)

Sec. 6-1.5. Three-tier regulatory system; public policy and rule of statutory construction. The General Assembly hereby restates that it is the policy of this State that the primary purpose of this Act is to protect the health, safety, and welfare of this State through the sound and careful control and regulation of the manufacture, distribution, and sale of alcoholic liquor through a 3-tier regulatory system. To ensure and maintain a 3-tier regulatory system, the General Assembly finds that it is the obligation and duty of the State Commission to construe the provisions of this Act in a manner that conforms to State policy and this Act's primary purpose as articulated in this Section and to exercise its statutory authority in a manner consistent with that purpose whether or not the provisions of this Act are unambiguous or capable of one or more reasonable constructions.

(235 ILCS 5/6-2) (from Ch. 43, par. 120)

Sec. 6-2. Issuance of licenses to certain persons prohibited.

(a) Except as otherwise provided in subsection (b) of this Section and in paragraph (1) of subsection (a) of Section 3-12, no license of any kind issued by the State Commission or any local commission shall be issued to:

(1) A person who is not a resident of any city, village or county in which the premises covered by the license are located; except in case of railroad or boat licenses.

(2) A person who is not of good character and reputation in the community in which he resides.

(3) A person who is not a citizen of the United States.

(4) A person who has been convicted of a felony under any Federal or State law, unless the Commission determines that such person has been sufficiently rehabilitated to warrant the public trust after considering matters set forth in such person's application and the Commission's investigation. The burden of proof of sufficient rehabilitation shall be on the applicant.

(5) A person who has been convicted of keeping a place of prostitution or keeping a place of juvenile prostitution, promoting prostitution that involves keeping a place of prostitution, or promoting juvenile prostitution that involves keeping a place of juvenile prostitution.

(6) A person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality.

(7) A person whose license issued under this Act has been revoked for cause.

(8) A person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application.

(9) A copartnership, if any general partnership thereof, or any limited partnership thereof, owning more than 5% of the aggregate limited partner interest in such copartnership would not be eligible to receive a license hereunder for any reason other than residence within the political subdivision, unless residency is required by local ordinance.

(10) A corporation or limited liability company, if any member, officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than 5% of the stock of such corporation, would not be eligible to receive a license hereunder for any reason other than citizenship and residence within the political subdivision.

(10a) A corporation or limited liability company unless it is incorporated or organized in Illinois, or unless it is a foreign corporation or foreign limited liability company which is qualified under the Business Corporation Act of 1983 or the Limited Liability Company

Act to transact business in Illinois. The Commission shall permit and accept from an applicant for a license under this Act proof prepared from the Secretary of State's website that the corporation or limited liability company is in good standing and is qualified under the Business Corporation Act of 1983 or the Limited Liability Company Act to transact business in Illinois.

(11) A person whose place of business is conducted by a manager or agent unless the manager or agent possesses the same qualifications required by the licensee.

(12) A person who has been convicted of a violation of any Federal or State law concerning the manufacture, possession or sale of alcoholic liquor, subsequent to the passage of this Act or has forfeited his bond to appear in court to answer charges for any such violation.

(13) A person who does not beneficially own the premises for which a license is sought, or does not have a lease thereon for the full period for which the license is to be issued.

(14) Any law enforcing public official, including members of local liquor control commissions, any mayor, alderman, or member of the city council or commission, any president of the village board of trustees, any member of a village board of trustees, or any president or member of a county board; and no such official shall have a direct interest in the manufacture, sale, or distribution of

alcoholic liquor, except that a license may be granted to such official in relation to premises that are not located within the territory subject to the jurisdiction of that official if the issuance of such license is approved by the State Liquor Control Commission and except that a license may be granted, in a city or village with a population of 50,000 or less, to any alderman, member of a city council, or member of a village board of trustees in relation to premises that are located within the territory subject to the jurisdiction of that official if (i) the sale of alcoholic liquor pursuant to the license is incidental to the selling of food, (ii) the issuance of the license is approved by the State Commission, (iii) the issuance of the license is in accordance with all applicable local ordinances in effect where the premises are located, and (iv) the official granted a license does not vote on alcoholic liquor issues pending before the board or council to which the license holder is elected. Notwithstanding any provision of this paragraph (14) to the contrary, an alderman or member of a city council or commission, a member of a village board of trustees other than the president of the village board of trustees, or a member of a county board other than the president of a county board may have a direct interest in the manufacture, sale, or distribution of alcoholic liquor as long as he or she is not a law enforcing public official, a mayor, a village

board president, or president of a county board. To prevent any conflict of interest, the elected official with the direct interest in the manufacture, sale, or distribution of alcoholic liquor shall not participate in any meetings, hearings, or decisions on matters impacting the manufacture, sale, or distribution of alcoholic liquor. Furthermore, the mayor of a city with a population of 50,000 or less or the president of a village with a population of 50,000 or less may have an interest in the manufacture, sale, or distribution of alcoholic liquor as long as the council or board over which he or she presides has made a local liquor control commissioner appointment that complies with the requirements of Section 4-2 of this Act.

(15) A person who is not a beneficial owner of the business to be operated by the licensee.

(16) A person who has been convicted of a gambling offense as proscribed by any of subsections (a) (3) through (a) (11) of Section 28-1 of, or as proscribed by Section 28-1.1 or 28-3 of, the Criminal Code of 1961 or the Criminal Code of 2012, or as proscribed by a statute replaced by any of the aforesaid statutory provisions.

(17) A person or entity to whom a federal wagering stamp has been issued by the federal government, unless the person or entity is eligible to be issued a license under the Raffles Act or the Illinois Pull Tabs and Jar Games

Act.

(18) A person who intends to sell alcoholic liquors for use or consumption on his or her licensed retail premises who does not have liquor liability insurance coverage for that premises in an amount that is at least equal to the maximum liability amounts set out in subsection (a) of Section 6-21.

(19) A person who is licensed by any licensing authority as a manufacturer of beer, or any partnership, corporation, limited liability company, or trust or any subsidiary, affiliate, or agent thereof, or any other form of business enterprise licensed as a manufacturer of beer, having any legal, equitable, or beneficial interest, directly or indirectly, in a person licensed in this State as a distributor or importing distributor. For purposes of this paragraph (19), a person who is licensed by any licensing authority as a "manufacturer of beer" shall also mean a brewer and a non-resident dealer who is also a manufacturer of beer, including a partnership, corporation, limited liability company, or trust or any subsidiary, affiliate, or agent thereof, or any other form of business enterprise licensed as a manufacturer of beer.

(20) A person who is licensed in this State as a distributor or importing distributor, or any partnership, corporation, limited liability company, or trust or any subsidiary, affiliate, or agent thereof, or any other form

of business enterprise licensed in this State as a distributor or importing distributor having any legal, equitable, or beneficial interest, directly or indirectly, in a person licensed as a manufacturer of beer by any licensing authority, or any partnership, corporation, limited liability company, or trust or any subsidiary, affiliate, or agent thereof, or any other form of business enterprise, except for a person who owns, on or after the effective date of this amendatory Act of the 98th General Assembly, no more than 5% of the outstanding shares of a manufacturer of beer whose shares are publicly traded on an exchange within the meaning of the Securities Exchange Act of 1934. For the purposes of this paragraph (20), a person who is licensed by any licensing authority as a "manufacturer of beer" shall also mean a brewer and a non-resident dealer who is also a manufacturer of beer, including a partnership, corporation, limited liability company, or trust or any subsidiary, affiliate, or agent thereof, or any other form of business enterprise licensed as a manufacturer of beer.

(b) A criminal conviction of a corporation is not grounds for the denial, suspension, or revocation of a license applied for or held by the corporation if the criminal conviction was not the result of a violation of any federal or State law concerning the manufacture, possession or sale of alcoholic liquor, the offense that led to the conviction did not result

in any financial gain to the corporation and the corporation has terminated its relationship with each director, officer, employee, or controlling shareholder whose actions directly contributed to the conviction of the corporation. The Commission shall determine if all provisions of this subsection (b) have been met before any action on the corporation's license is initiated.

(Source: P.A. 96-1551, eff. 7-1-11; 97-1059, eff. 8-24-12; 97-1150, eff. 1-25-13.)

(235 ILCS 5/6-4.5 new)

Sec. 6-4.5. Prohibited ownership interests in a distributor, importing distributor, manufacturer of beer, or non-resident dealer.

(a) The General Assembly finds, consistent with Section 6-1.5, that the 3-tier regulatory system is designed to prevent a manufacturer of beer as described in paragraph (19) of subsection (a) of Section 6-2 from exercising vertical integration between a manufacturer of beer and a distributor or importing distributor through any ownership interest, or through control of the distributor or importing distributor. The General Assembly further finds, consistent with Section 6-1.5, that the 3-tier regulatory system is designed to prevent a distributor or importing distributor as described in paragraph (20) of subsection (a) of Section 6-2 from having any ownership interest in a manufacturer of beer as described in

paragraph (20) of subsection (a) of Section 6-2 except for the ownership of no more than 5% of the outstanding shares of a manufacturer of beer whose shares are publicly traded on an exchange within the meaning of the Securities Exchange Act of 1934. The General Assembly further finds that it is necessary to have the State Commission undertake an expedited investigation, in accordance with procedural due process, to determine whether any existing manufacturer of beer described in paragraph (19) of subsection (a) of Section 6-2 or any existing distributor or importing distributor described in paragraph (20) of subsection (a) of Section 6-2 owns a prohibited ownership interest, and an orderly process by which an existing manufacturer of beer, distributor, or importing distributor may divest itself of or sever the prohibited ownership interest by no later than January 1, 2015.

(b) Notwithstanding any provision of this Act to the contrary, no person licensed as a manufacturer of beer as described in paragraph (19) of subsection (a) of Section 6-2 shall have any prohibited ownership interest, directly or indirectly, in a person licensed as a distributor or importing distributor. Any person who holds a prohibited ownership interest in a person licensed as a distributor or importing distributor prior to this amendatory Act of the 98th General Assembly shall, in accordance with paragraph (19) of subsection (a) of Section 6-2, be ineligible to receive or hold any license issued by the State Commission, unless that person

complies with the provisions of this Section.

(c) Notwithstanding any provision of this Act to the contrary, no person licensed in this State as a distributor or importing distributor as described in paragraph (20) of subsection (a) of Section 6-2 shall have any prohibited ownership interest, directly or indirectly, in a person licensed as a manufacturer of beer as described in paragraph (20) of subsection (a) of Section 6-2. Any person who holds an interest in a person licensed as a distributor or importing distributor in this State prior to this amendatory Act of the 98th General Assembly shall, in accordance with paragraph (20) of subsection (a) of Section 6-2, be ineligible to receive or hold a license by the State Commission, unless the person complies with the provisions of this Section. This subsection (c) shall not apply to a person who owns, on or after the effective date of this amendatory Act of the 98th General Assembly, no more than 5% of the outstanding shares of a manufacturer of beer whose shares are publicly traded on an exchange within the meaning of the Securities Exchange Act of 1934.

(d) Within 30 days after the effective date of this amendatory Act of the 98th General Assembly, the State Commission shall notify in writing all persons licensed by the State Commission as a manufacturer of beer, as described in paragraph (19) of subsection (a) of Section 6-2 of the prohibited ownership interest provision set forth in

subsection (b) of this Section and paragraph (19) of subsection (a) of Section 6-2. Also within 30 days after the effective date of this amendatory Act of the 98th General Assembly, the State Commission shall notify in writing all persons licensed by the State Commission as a distributor or importing distributor of the prohibited ownership interest provision set forth in subsection (c) of this Section and paragraph (20) of subsection (a) of Section 6-2. The notice provided by the State Commission shall also state for a manufacturer of beer, as described in paragraph (19) of subsection (a) of Section 6-2, that it is required to disclose in writing any ownership interest it directly or indirectly possesses in a distributor or importing distributor, as described in paragraph (20) of subsection (a) of Section 6-2, the type and amount of ownership interest possessed by it, the length of time the manufacturer of beer has held the ownership interest in the distributor or importing distributor, and any other information specified by the State Commission in its written notice. The notice provided by the State Commission shall also state for a distributor or importing distributor, as described in paragraph (20) of subsection (a) of Section 6-2, that it is required to disclose in writing any ownership interest it directly or indirectly possesses in a manufacturer of beer, as described in paragraph (19) of subsection (a) of Section 6-2, the type and amount of ownership interest possessed by it, the length of time the manufacturer of beer has held the ownership interest in the

distributor or importing distributor, and any other information specified by the State Commission in its written notice.

(e) Within 60 days after the effective date of this amendatory Act of the 98th General Assembly, each manufacturer of beer, distributor, or importing distributor subject to notification under subsection (d) of this Section shall disclose in writing and under oath the relevant ownership interest and other required information specified in the notification provided by the State Commission pursuant to that subsection. The written disclosure shall, as a mandatory obligation, be tendered to the State Commission by either personal service or via certified or registered mail at the State Commission's Springfield or Chicago office on or before the 60th day during regular business hours. Failure to tender the required written disclosure shall result in the immediate entry of an order by the State Commission suspending the licensee's license within 5 days after the 60th day, and the initiation of proceedings by the State Commission to enter an order to permanently revoke the licensee's license no later than 45 days after providing the licensee with notice and an opportunity for a hearing. Whenever the State Commission has reason to believe that a person has failed to comply with the Commission notice under this Section, it shall notify the Department of Revenue and the Attorney General, and shall file a complaint with the State's Attorney of the county where the

alcoholic liquor was delivered or with appropriate law enforcement officials. Failure to make the written disclosure required under this subsection shall constitute a business offense for which the person shall be fined not more than \$5,000 for a first offense, not more than \$10,000 for a second offense, and not more than \$15,000 for a third or subsequent offense.

(f) Within 180 days after the effective date of this amendatory Act of the 98th General Assembly, the State Commission shall review each of the disclosures tendered to the State Commission by licensees pursuant to subsection (e) and enter an order determining whether or not each licensee is in compliance with subsection (b) or (c) of this Section, whichever is applicable, after providing each licensee with notice and an opportunity for a hearing. As part of making its determination, the State Commission shall also consider any information otherwise admissible under Section 10-40 of the Illinois Administrative Procedure Act.

(g) If the State Commission determines, based on a preponderance of record evidence, that a manufacturer of beer, distributor, or importing distributor has no prohibited ownership interest in a licensee in violation of subsection (b) or (c) of this Section, then the State Commission shall enter an order finding that the manufacturer of beer, distributor, or importing distributor is in compliance with this Section, record the matter as closed, and serve a copy of the order of

compliance on the licensee and each person with an ownership interest in the licensee.

If the State Commission determines, based on a preponderance of record evidence, that a manufacturer of beer, as described in paragraph (19) of subsection (a) of Section 6-2, has a prohibited ownership interest as set forth in subsection (b) of this Section, then the State Commission shall enter an order finding that the manufacturer of beer is not in compliance with this Section and that the manufacturer of beer shall divest itself of that interest on or before January 1, 2015, subject to the State Commission's approval of the successive owner pursuant to the State Commission's authority provided in this Act. In addition, the State Commission shall find that the relevant distributor or importing distributor is not in compliance with this Section and that the distributor or importing distributor is required to sever the prohibited ownership interest possessed by the relevant manufacturer of beer on or before January 1, 2015, subject to the State Commission's approval of the successive owner pursuant to the State Commission's authority provided in this Act.

If the State Commission determines, based on a preponderance of record evidence, that a distributor or importing distributor, as described in paragraph (20) of subsection (a) of Section 6-2, has a prohibited ownership interest as set forth in subsection (c) of this Section, then the State Commission shall enter an order finding that the

relevant distributor or importing distributor is not in compliance with this Section and that the relevant distributor or importing distributor shall divest itself of that interest on or before January 1, 2015, subject to the State Commission's approval of the successive owner pursuant to the State Commission's authority provided in this Act. In addition, the State Commission shall find that the manufacturer of beer is not in compliance with this Section and that the manufacturer of beer shall sever the prohibited ownership interest possessed by the distributor or importing distributor on or before January 1, 2015, subject to the State Commission's approval of the successive owner pursuant to the State Commission's authority provided in this Act.

The State Commission's order shall further find that the continued ownership of the prohibited ownership interest beyond January 1, 2015 by the manufacturer of beer, distributor, or importing distributor is against the public interest and a violation of this Section and Section 6-1.5 of the Act.

The State Commission's order shall further find for a manufacturer of beer, as described in paragraph (19) of subsection (a) of Section 6-2, found in non-compliance with subsection (b) of this Section that its license is revoked on January 16, 2015 as to the transport, transfer, or sale of any alcoholic liquor to the relevant distributor or importing distributor that the manufacturer of beer has a prohibited

ownership interest in if that interest is not properly divested on January 1, 2015, subject to the State Commission's approval of the successive owner pursuant to the State Commission's authority provided in this Act. In addition, the State Commission shall find that the license of a distributor or importing distributor that is subject to the prohibited ownership interest of the manufacturer of beer is revoked on January 16, 2015 as to the transport, transfer, or sale of alcoholic liquor from the relevant manufacturer of beer to any retailer if that ownership interest is not properly severed on January 1, 2015, subject to the State Commission's approval of the successive owner pursuant to the State Commission's authority provided in this Act.

The State Commission's order shall further find for a distributor or importing distributor, as described in paragraph (20) of subsection (a) of Section 6-2, found in non-compliance with subsection (c) of this Section, that its license is revoked on January 16, 2015 as to the transport, transfer, or sale of any alcoholic liquor from the relevant manufacturer of beer to any retailer if that prohibited ownership interest in the manufacturer of beer is not properly divested on January 1, 2015, subject to the State Commission's approval of the successive owner pursuant to the State Commission's authority provided in this Act. In addition, the State Commission shall find that the license of the manufacturer of beer that is subject to the prohibited

ownership interest of a distributor or importing distributor is revoked on January 16, 2015 as to the transport, transfer, or sale of alcoholic liquor to the distributor or importing distributor if that ownership interest is not properly severed on January 1, 2015, subject to the State Commission's approval of the successive owner pursuant to the State Commission's authority provided in this Act.

The State Commission shall serve a copy of the order of non-compliance on the licensee and each person with an ownership interest in the licensee.

(h) If a person with a prohibited ownership interest in a licensee under subsection (b) or (c) of this Section succeeds in divesting itself of or severing that interest and obtains the State Commission's approval of the successive owner pursuant to its authority provided in this Act on or before January 1, 2015, then the State Commission shall enter an order finding that the licensee is in compliance, record the matter as closed, and serve a copy of the order of compliance on the licensee and each person with an ownership interest in the licensee.

If a person with a prohibited ownership interest in violation of subsection (b) or (c) of this Section fails to divest itself of or sever that interest and obtain the State Commission's approval of the successive owner pursuant to the State Commission's authority provided in this Act on or before January 1, 2015, then the State Commission shall, after notice

and an opportunity for a hearing, revoke each licensee's license as specified in subsection (g) of this Section on January 16, 2015. The State Commission, when entering the order, shall give notice to the person by certified mail to cease and desist all shipments of alcoholic liquor into or within this State and to withdraw from this State within 5 working days after receipt of the notice all shipments of alcoholic liquor in transit. Whenever the State Commission has reason to believe that a person has failed to comply with the State Commission's notice under this Section, it shall notify the Department of Revenue and the Attorney General, and shall file a complaint with the State's Attorney of the county where the alcoholic liquor was delivered, or with appropriate law enforcement officials. Failure to comply with the notice issued by the State Commission under this Section is against the public interest and constitutes a business offense for which the person shall be fined not more than \$5,000 for a first offense, not more than \$10,000 for a second offense, and not more than \$15,000 for a third or subsequent offense. Each shipment or transfer of alcoholic liquor in violation of the cease and desist notice shall constitute a separate offense.

(i) The power and authority granted to the State Commission under this Section is in addition to any existing power or authority the State Commission has under this Act and its exercise shall be accorded precedence on the State Commission's meeting agenda so as to fully accommodate the schedule for any

proceeding under the provisions of this Section. Nothing in this Act shall be construed as limiting or otherwise impairing the ability of the State Commission to conduct future investigations and proceedings sua sponte or pursuant to a complaint to ensure compliance with this Section or paragraph (19) or (20) of subsection (a) of Section 6-2 of this Act. Any future investigations and proceedings shall be conducted by the State Commission on an expedited basis and pursuant to an initiating order entered by the State Commission. The State Commission shall enter its initiating order within 30 days after the receipt of a complaint. The initiating order shall set forth a schedule by which the required notices, disclosures, determinations, or orders specified in subsections (d), (e), (f), (g), and (h) shall be made or entered, and the period of time by which a licensee shall divest itself of or sever a prohibited ownership interest, which shall be no later than 540 days after the entry of the initiating order.

(j) Any association or non-profit corporation representing beer distributors in this State shall have standing to intervene and otherwise participate as a party in any proceeding undertaken by the State Commission under this Section to review and determine compliance or non-compliance with this Section.

(k) For purposes of this Section, the term "ownership interest" means a legal, equitable, or beneficial interest

recognized under Illinois law. The term "prohibited ownership interest" means an ownership interest in a distributor, importing distributor, or manufacturer of beer as specified in this Section.

Section 99. Effective date. This Act takes effect upon becoming law.